

PROB 12B
(7/93)

Report Date: July 29, 2010
FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

United States District Court

for the

Eastern District of Washington

JUL 30 2010

JAMES R. LARSEN, CLERK
DEPUTY
RICHLAND, WASHINGTON

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Matthew William Butkovich

Case Number: 2:01CR00162-001

2:02CR00156-001

2:02CR00227-001

2:02CR00158-001

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, U.S. District Judge

Date of Original Sentence: 12/19/2002

Type of Supervision: Supervised Release

Original Offense: Armed Bank Robbery, 18 U.S.C. §
2113(a) and (d); One Count each under Docket No.:

Date Supervision Commenced: 07/13/2010

2:01CR00162-001, 2:02CR00156-001, and
2:02CR00227-001

Possession of an Unregistered Sawed-off Shotgun, 26
U.S.C. § 5861(d), Docket No: 2:02CR00158-001

Original Sentence: Prison - 121 Months; TSR - 60
Months

Date Supervision Expires: 07/12/2015

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 21 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.

CAUSE

On July 28, 2010, a request was received to modify Mr. Butkovich's conditions of supervision from U.S. Probation Officer (USPO) Robert L. Urbaniak in the District of Idaho. USPO Urbaniak has been supervising the offender since July 13, 2010.

USPO Urbaniak requests the modification to Mr. Butkovich's drug testing submission to coincide with the U.S. vs. Stephens, 2005 WL 2106158, 9th Circuit Court decision. As a result, the defendant signed a waiver of hearing agreeing to the modification of his conditions which establishes the maximum number of non-treatment drug tests at no more than 6 per month. Mr. Butkovich signed the modification in the presence of USPO Urbaniak on July 26, 2010.

Prob 12B

Re: Butkovich, Matthew William

July 29, 2010

Page 2

Please find the attached petition to modify the conditions of supervised release submitted by USPO Urbaniak on July 26, 2010, and the Waiver of Hearing to Modify Conditions of Supervised Release signed by USPO Urbaniak and Mr. Butkovich.

In addition, USPO Urbaniak is supportive of jurisdiction in this case being transferred to the District of Idaho. This officer believes this request is appropriate, since the offender has ties to the District of Idaho. As a result, if the Court concurs with this action, the appropriate paperwork is attached to this petition to facilitate the transfer of jurisdiction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 07/29/2010

s/Brenda Kuest

Brenda Kuest

U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other



Signature of Judicial Officer

July 30, 2010
Date

PROB 12B (REV. 8/08)

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA

**PETITION TO MODIFY CONDITIONS OF
SUPERVISED RELEASE**

v.

MATTHEW BUTKOVICH

**Dkt. No. 0980 2:01CR00162-001
0980 2:02CR00156-001
0980 2:02CR00158-001
0980 2:02CR00227-001**

COMES NOW Robert L. Urbaniak, Probation Officer of the Court, presenting an official report upon the conduct and attitude of Matthew Butkovich, who was placed on supervision by the Honorable Edward F. Shea sitting in the Court at Spokane, Washington, on December 19, 2002. The defendant was sentenced to 121 months imprisonment and 5 years supervised release for a violation of 18 § 2113(a) & (d): Armed Bank Robbery in Dkt. No. 2:01-00162-001; 121 months imprisonment and 5 years supervised release for a violation of 18 § 2113(a) & (d): Armed Bank Robbery in Dkt. No. 2:02-00156-001; 97 months imprisonment and 3 years supervised release for a violation of 26 § 5861(d): Possession of an Unregistered Sawed-Off Shotgun in Dkt. No. 2:02-00158-001; and 121 months imprisonment and 5 years supervised release for a violation of 18 § 2113(a) & (d): Armed Bank Robbery in Dkt. No. 2:02-00227-001. Supervision commenced on July 13, 2010, and is set to expire on July 12, 2015. As noted in the judgment, the Court ordered mandatory, special and standard conditions of supervision. The probation officer proposes the following modification to the terms and conditions of supervised release.

RESPECTFULLY REPRESENTING PETITION FOR ACTION OF THE COURT AND FOR CAUSE AS FOLLOWS:

U.S. vs. Stephens, 2005 WL 2106158, is a 9th Circuit decision which directs that a Court must establish the maximum number of non-treatment drug tests that may be obtained during a term of supervision. I understand that previously the Court imposed at sentencing: "The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer." To address this issue, the defendant has signed a waiver of hearing agreeing to a modification of conditions that establishes the maximum number of non-treatment drug tests at no more than 6 per month.

The defendant has agreed to the proposed modification as evidenced by the attached Waiver of Hearing.

Butkovich, Matthew Petition to Modify Supervised Release Continued
Dkt. No. 0980 2:01CR00162-001
0980 2:02CR00156-001
0980 2:02CR00158-001
0980 2:02CR00227-001

July 27, 2010

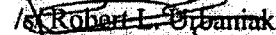
Page 2

PRAYING THAT THE COURT WILL ORDER the special conditions of supervised release be modified to include the following:

You shall abstain from the use of illegal controlled substances and shall submit to urinalysis testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 27th day of July, 2010.

Respectfully submitted,


/s/ Robert L. Urbanik

U.S. Probation Officer

Place Coeur d'Alene, Idaho

ORDER OF COURT

Considered, ordered and made a part of the record in the above case.

Butkovich, Matthew Petition to Modify Supervised Release Continued
Dkt. No. 0980 2:01CR00162-001
0980 2:02CR00156-001
0980 2:02CR00158-001
0980 2:02CR00227-001

July 26, 2010

Page 3
PROB 49
(Rev. 8/08)

UNITED STATES DISTRICT COURT

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

U. S. vs. MATTHEW BUTKOVICH

Dkt. No. 0980 2:01CR00162-001
0980 2:02CR00156-001
0980 2:02CR00158-001
0980 2:02CR00227-001

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation or Supervised Release or to the proposed extension of my term of supervision:

You shall abstain from the use of illegal controlled substances and shall submit to urinalysis testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

Witness:


U.S. Probation Officer

Signed:


Probationer or Supervised Releasee

7-26-10
Date